



IDAHO STATE BOARD OF MEDICINE

THE REPORT

VOLUME 2009-ISSUE 2 SUMMER 2009

BEWARE OF TREATING INTERNET PATIENTS

By Jean Uranga, JD, Attorney for the Board

Last Fall, the Idaho State Board of Medicine received an application from a physician who clearly stated he had no intention of being physically present, or maintaining an office, in the State of Idaho. The sole purpose for which he wanted an Idaho license was to work for an out-of-state, internet physician service. The company he proposed to work for is owned and operated by non-physicians who do not hold Idaho licenses to practice medicine. Patients contact the internet company for medical advice and provide medical information on the internet, together with a credit card number. The physician working for the internet service provider then responds by telephone to medical inquiries from Idaho patients and provides a diagnosis, medical recommendations and possibly prescriptions without ever seeing or examining the patient.

Providing medical services in this way violates the Idaho Medical Practice Act. The Idaho Medical Practice Act generally prohibits the corporate practice of medicine which occurs when a lay corporation hires physicians to provide medical services. There are some exceptions to this prohibition if a corporation is authorized by state or federal law to provide medical services. Idaho Code §54-1814(3) prohibits practicing medicine under a false or assumed name and Idaho Code §54-1814(5) prohibits knowingly aiding or abetting any person to practice medicine who is not authorized to practice medicine.

(continued on next page)

NOTICE This newsletter is the only information newsletter published by the Idaho Board of Medicine and serves as the Board's notification of rule changes, policy information, and discipline information provided to all licensees of the Idaho Board of Medicine.

Beware of Treating Internet Patients (continued)

In addition, Idaho Code §54-1814(8) prohibits division of fees received for professional services with any person, institution or corporation in exchange for referral and Idaho Code §54-1814(9) makes it illegal to give or receive a rebate either directly or indirectly.

It also violates the Idaho Medical Practice Act to provide health care which fails to meet the standard of health care provided by other qualified physicians in the same or similar communities as set forth in Idaho Code §54-1814(7). The Idaho standard of care requires a documented, physical patient examination adequate to establish a diagnosis and identify underlying conditions and/or contraindications to treatment prior to making a diagnosis or writing a prescription. This is also required by the Idaho pharmacy laws. Idaho Code §54-1733.

The out-of-state, internet company was advised its proposed method of practicing medicine in the State of Idaho violated the Idaho Medical Practice Act. The Board has since learned that this same company may be continuing to solicit Idaho physicians to contract with them to engage in these improper practices.

Please be warned that, if you contract to provide medical services to patients through such companies, you may be subject to disciplinary sanctions by the Idaho Board of Medicine. The Board would be interested in receiving information from any physicians who have received such solicitations or are aware of anyone who has contracted to provide such services.

On Line Renewal

Thank you for using the Board of Medicine on-line renewal process. The on-line renewal process was used by 80% of all Board of Medicine licensees. This year saw the first administrative fees being charged for paper renewal form requests. It is anticipated such fees will increase in the next renewal cycle with all paper renewal forms eliminated in 2011 for all professions. The demonstrated cost savings to the Board of Medicine licensees is evident in steady application and renewal fees for the past 11 years despite economic turmoil.

What's on the Agenda

What are the boards seeing as issues in the licensing and discipline arena? In the past few months the boards have dealt with:

- 1) Unlicensed practice, practice before a license is issued
- 2) Practice beyond the scope of education and or training
- 3) Practice without a required supervising or directing physician
- 4) Failure to appropriately supervise

Board welcomes new members:

Stephen Marano, MD, to the Committee on Professional Discipline

And bids farewell to....

Bruce Miewald, MD, Committee on Professional Discipline 2003-2009, the Board thanked Dr Miewald for his outstanding service to the Committee

BOARD ACTIONS**PLEASE NOTE**

Some physicians have similar names, please verify information by license number on our web site at:
www.bom.state.id.us

Paul Delaplain, PAPA-10 Boise, ID

Allegation: Practice without proper supervision

Board Action: Stipulation and Order, Fine

Nita Weber, DOO-0472 Soda Springs, ID

Board Action: Termination of Stipulation and Order

Randy Sasich, MDM-10550 Washington

Allegation: Failure to comply with Patient Freedom of Information Act

Board Action: Fine

Christopher Sundquist, PAPA-333 Coeur D Alene, ID

Allegation: Failure to meet standard of care, narcotics

Board Action: License Surrender

Explanation of terms:

Stipulation: an agreement, admission, or concession.

Stipulation and Order: an agreement between the Board and the practitioner regarding authorization to practice or placing terms or conditions on the authorization to practice.

Suspension: temporary withdrawal of authorization to practice.

Reprimand: a formal admonishment of conduct or practice.

Revocation: cancellation of the authorization to practice.

Christopher Partridge, MDM-8987 Boise, ID

Board Action: Modification of Stipulation and Order

John Boyajian, MDM-6896 Boise, ID

Board Action: Termination of Stipulation and Order

Carl R. Bergstrom, MDM-7248 California

Board Action: License suspended, reciprocal discipline

YEAR TO DATE TOTALS**Complaints-229****Investigations-140****Letters of Concern-5****Stipulation and Order-13****License Surrendered/Suspension-3****Fine-3**Robert Mena, MDM-8898 Jerome, ID

Allegation: Failure to meet standard of care

Board Action: Stipulation and Order, limit practice

Pre Litigation Panels

Our thanks to the many physicians who volunteer and willingly serve on the prelitigation panels. As you will recall from past issues of the newsletter, the Board of Medicine passed rules last year requiring service on prelitigation panels, similar to the requirement for jury duty.

22.01.01.081. PHYSICIAN PANELIST FOR PRELITIGATION CONSIDERATION OF MEDICAL MALPRACTICE CLAIMS.

01. Purpose. The purpose of serving as a physician panelist for prelitigation consideration of medical malpractice claims is to cooperate in the prelitigation consideration of personal injury and wrongful death claims for damages arising out of the provision of or alleged failure to provide hospital or medical care in Idaho and to accept and hear complaints of such negligence and damages, made by or on behalf of any patient who is an alleged victim of such negligence. (5-8-09)

02. Eligibility. A physician licensed to practice medicine and surgery or osteopathic medicine or surgery in Idaho shall be available to serve in any two (2) year period, or a longer period not to exceed five (5) years, as determined by the panel chairman, as a physician panelist for prelitigation consideration of a medical malpractice claim. (5-8-09)

03. Excusing Physicians from Serving. A physician panelist so selected shall serve unless he had served on a prelitigation panel during any previous two (2) year period, or a longer period not to exceed five (5) years, as determined by the panel chairman or for good cause shown, is excused by the panel chairman. To show good cause for relief from serving, the selected physician panelist shall present an affidavit to the panel chairman which shall set out the facts showing that service would constitute an unreasonable burden or undue hardship. The panel chairman shall have the sole authority to excuse a selected physician from serving on a prelitigation panel. (5-8-09)

04. Penalties for Noncompliance. The Board may condition, limit, suspend, or refuse to renew the license of any physician whom the Board determines has failed to serve as a physician panelist for the prelitigation consideration of a medical malpractice claim. (5-8-09)

Proposed Legislation

Physician Assistants

In the 2010 legislative session the Idaho Board of Medicine will propose a change to the statutory language that will allow Physician Assistants to own a medical practice while maintaining the requirement for a supervising and alternate supervising physician at all times during the ownership.

Investigations

In the 2010 the Board will seek statutory changes to allow the Board to issue an investigatory subpoena.

Calendar of Board of Medicine Meetings for 2009

September 11, 2009

December 4, 2009 **

** Meeting scheduled for Board Office

DEPLOYED?

IF YOU ARE DEPLOYED PLEASE PROVIDE A COPY OF YOUR MILITARY ORDERS FOR DEPLOYMENT AND A COPY OF THE ORDERS RETURNING TO THE U.S. OR RELIEVING YOU FROM ACTIVE DUTY WHEN YOU RETURN. UPON RECEIPT OF THE ORDERS THE BOARD WILL MAINTAIN YOUR LICENSE IN ACTIVE, CURRENT STATUS WHILE DEPLOYED AND WAIVE ALL LICENSE FEES FOR UP TO 6 MONTHS AFTER YOUR RETURN.

IDAHO STATE BOARD OF MEDICINE

David McClusky, II, MD, Chairman

Trudy Jackson, Public Member

Leo Harf, MD, Member

Laura McGeorge, MD, Member

Joyce McRoberts, Public Member

Jerry Russell, Director, Idaho State Police

Ralph Sutherlin, DO, Member

William Cone, MD, Member

William Ganz, MD, Member

Barry Bennett, MD, Member

COMMITTEE ON PROFESSIONAL DISCIPLINE

Mike Johnson, Public Member, Chairman

A.C. Jones, III, MD, Member

Julia Bouchard, MD, Member

Stephen Marano, MD, Member

Wendell Wells, MD, Member

Allied Health Board Meetings

Meetings are held in the Board office unless otherwise noted.

The **Board of Athletic Trainers** meeting to be announced.

The **Dietetic Licensure Board** meeting is scheduled for **October 13, 2009 at 11:00 a.m.**

The **Respiratory Therapy Licensure Board** meeting is scheduled for **October 15, 2009 at 9:30 a.m.**

The **Physician Assistant Advisory Committee** meeting is scheduled for **October 30, 2009 at 11:00 a.m.**

Please note if you are submitting a response to a Board inquiry or a completed application, the completed material must be received in the Board office at least 20 days before the scheduled meeting date. Materials not received in that time frame will be added to the next regularly scheduled meeting agenda.

BOARD STAFF

Nancy Kerr, Executive Director

Mary Leonard, Associate Director

Cathleen Morgan, Board Attorney

Beverly Kendrick, Quality Assurance Specialist

Cynthia Michalik, Quality Assurance Specialist

Janet Whelan, Quality Assurance Specialist

Gloria Pedersen, Prelitigation Manager

Darlene Parrott, Compliance Monitor

Terri Solt, Physician Licensing Manager

Jodi Adcock, Allied Health Licensing Manager

Mary McCulley, Finance

Jennifer Winn, PA Licensing-Prelitigation

Stephen Tyrer, Investigative Assistant

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VISIT OUR WEB SITE AT
www.bom.state.id.us

FAIR AND IMPARTIAL APPLICATION AND
ENFORCEMENT OF THE PRACTICE ACTS

CHANGE OF ADDRESS EACH YEAR OF NUMBER OF LICENSE RENEWAL APPLICATIONS GO ASTRAY BECAUSE THE ADDRESS ON FILE WITH THE BOARD IS INCORRECT. AS A RESULT, LICENSES PEOPLE WISH TO MAINTAIN ARE CANCELLED AND HAVE TO BE REINSTATED. PLEASE COMPLETE AND RETURN THIS FORM IF YOUR ADDRESS CHANGES.

ID License No. _____

Name _____
(LAST) (FIRST) (MIDDLE INITIAL)Former Address: _____
(STREET)

(CITY) (STATE) (ZIP)

New Address: _____
(STREET)

(CITY) (STATE) (ZIP)

Phone (_____) _____ Date change becomes effective: _____